

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL KALAMI LEE,

Petitioner,

v.

MELISSA ANDREWJESKI,

Respondent.

CASE NO. C23-5576 BHS

ORDER

THIS MATTER is before the Court on Magistrate Judge Brian A. Tsuchida's Report and Recommendation (R&R), Dkt. 24, recommending the Court deny pro se petitioner Michael Kalami Lee's 28 U.S.C. § 2254 habeas petition, dismiss the case, and decline to issue a certificate of appealability under 28 U.S.C. § 2253(c). Lee pled guilty to two counts of first degree rape of a child in 2005. He did not appeal, and he remains in prison. The R&R concludes that Lee's § 2254 petition is time-barred. Dkt. 24 (citing 28 U.S.C. § 2254(d)'s one year limitations period).

Lee objects to the R&R, Dkt. 25, but he does not address the one year time limit or explain why it does not apply. He argues that he is entitled to a certificate of appealability because he has raised serious constitutional issues.

1 “The district judge must determine de novo any part of the magistrate judge’s
2 disposition that has been properly objected to. The district judge may accept, reject, or
3 modify the recommended disposition; receive further evidence; or return the matter to the
4 magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3). A party properly objects
5 when the party files “specific written objections” to the report and recommendation as
6 required under Federal Rule of Civil Procedure 72(b)(2).

7 “[I]n providing for a de novo determination . . . Congress intended to permit
8 whatever reliance a district judge, in the exercise of sound judicial discretion, chose to
9 place on a magistrate’s proposed findings and recommendations.” *United States v.*
10 *Raddatz*, 447 U.S. 667, 676 (1980) (internal quotation marks omitted). Accordingly,
11 when a district court adopts a magistrate judge’s recommendation, the district court is
12 required to merely “indicate[] that it reviewed the record de novo, found no merit
13 to . . . [the] objections, and summarily adopt[] the magistrate judge’s analysis in [the]
14 report and recommendation.” *United States v. Ramos*, 65 F.4th 427, 433 (9th Cir. 2023).
15 In so doing, district courts are “not obligated to explicitly address [the] objections.” *Id.* at
16 437.

17 The R&R is **ADOPTED** and Lee’s § 2254 petition is **DENIED**. The Court will
18 **NOT** issue a certificate of appealability under 28 U.S.C. § 2253(c). The matter is
19 **DISMISSED**.

20 The Clerk shall enter a **JUDGMENT** and close the case.

21 **IT IS SO ORDERED.**

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1 Dated this 17th day of November, 2023.

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4 BENJAMIN H. SETTLE
5 United States District Judge
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